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EXAMINER

STERRETT, JONATHAN G

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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DETAILED ACTION

1. The following is a **Final Office Action** in response to the communication received on 4 May 2009. **Claims 1-9 and 21-29** are pending, **Claims 16-20** are withdrawn. **Claims 21-29** are newly added.

Response to Amendments

2. The 35 USC 101 rejections are withdrawn

Response to Arguments

3. Applicant's arguments have been fully considered but they are not persuasive.

The applicant argues that the examiner has failed to provide a prima facie case to support the rejection because the examiner has not made an argument that the subject matter was present in the earlier applications to support Mayer. However, the examiner does not find this argument persuasive because the applicant does not point out which teachings of Mayer are not present in the earlier applications.

The applicant argues that Mayer fails to teach generating an inquiry because Mayer teaches filling out a questionnaire which fails to meet the claim limitation of "generating an inquiry".

The examiner respectfully disagrees.

Mayer is directed to matchmaking using cell phones and SMS messaging. Connecting with someone else to see if they are interested is "generating an inquiry". Mayer teaches that individuals are matched based on like attributes (i.e. a one way search for identifying those with qualities a user is interested in, and a two way search which ensures both users interests are matched with each other.

The examiner notes that in matchmaking or dating, it is known for users to interact with each other for the purpose of ascertaining whether the user's like each other. This includes a user inquiring more than one other user and includes generating an inquiry with predetermined responses (e.g. would you like to go out sometime?). This is at least suggested by Mayer's contactee list generated from those other users meeting criteria of interest to a user. The fact that Mayer's invention uses SMS messaging with a contactee list whose members have attribute criteria for matchmaking or dating suggests that the user is going to contact those users (i.e. generate an inquiry) with predetermined responses.

Thus the teaching of Mayer suggests the claimed limitations of generating an inquiry and forwarding it to other members based on an automatic determination of those members meeting attribute criteria, and then receiving a response.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-7 and 21-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hendrickson et al.** (U.S. 6,754,470) in view of **Mayer US 2005/0086211** (hereinafter **Hendrickson** and **Mayer**, respectively).

As per claim 1, Hendrickson et al. discloses a method comprising:

sending a request for a return signal into to a plurality of user devices via a wireless network (col. 7, lines 29-33, 53-57 and 64-67; col. 8, lines 12-15; A wireless network monitors wireless activity from (therefore, requests and receives signals from) devices of wireless users.);

receiving from said wireless network respective return signals from each of said plurality of user devices, each of said return signals containing information describing a respective user of each of said wireless devices (col. 8, lines 12-30; User data is received via the wireless network.);

receiving from said wireless network an inquiry, said inquiry having predetermined responses associated therewith, and receiving from said wireless

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network an attribute as a criteria for identifying recipients of said inquiry (col. 11, lines 36-40; col. 15, lines 8-16; col. 16, lines 15-16; A questionnaire may be invoked to prompt responses from wireless users. Also, emails may be exchanged among wireless panel members. It is known in the art that an email may be generated by one user and distributed to multiple users. See also col. 7, lines 12-24, where panel members may be selected/identified based on a number of criteria. See also col. 7, lines 1-11, where data gathering software invokes an “inquiry” into the events/activities of mobile device users with predetermined responses such as applications and features used as well as location of the mobile device when such applications/features are in use.);

Hendrickson teaches the gathering of marketing information related to wireless users (ie. demographic or other marketing related information). However, Hendrickson is concerned with gathering information (i.e. attributes) from users, rather than having a user select an attribute, which is then used in getting users to respond to that attribute, such that the response is forwarded back to the original user. Thus Hendrickson does not teach, but Mayer;

Said inquiry having predetermined responses associated therewith that are configured to be completed by recipients of said inquiry

Para 15, Mayer teaches an SMS based dating services that provides potential contactees based on them meeting criteria. These contactees are added to a mobile device's contactee list so a user can determine if they are online or not. Mayer

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suggests that a user would generate an inquiry (.e.g. "are you interested in getting together?") with predetermined responses (e.g. "yes" or "no"), since Mayer's invention is directed to matchmaking those who are compatible according to like interests and attributes and where Mayer's invention identifies those who are compatible for the purpose of a device's user putting those other like users in a contactee list (i.e. to contact them). However, if not inherent in Mayer, Official Notice is taken that it is old and well known in the matchmaking art for one person to inquire others for dating purposes (e.g. "would you like to go out on a date with me") with predetermine responses (e.g. "yes" "no"). This would provide a predictable response in combination with Mayer since Mayer's invention is directed towards identifying users with compatible attributes for the purpose of those user's contacting each other.

Mayer further teaches:

Where the inquiry is generated by a first user

Para 16. and see analysis above

automatically selecting a group of user devices from said plurality of user devices, each user device of said group of user devices being associated with said attribute, said selecting including analyzing said respective information of each of said plurality of user devices , said attribute being identifiable from said respective information of each of said selected group of user devices and

para 11-15, based on the questionnaire filled out by the user (including certain attributes) this questionnaire is then forwarded to other users who meet the critiera, i.e.

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being automatically determined, since Mayer's invention is matching up potential dates based on the criteria input by a user.

forwarding said inquiry into said wireless network to said group of user devices via the wireless network to be completed by respective users of said group of user devices

para 15, the contactee list for Mayer's dating invention using SMS messaging suggests sending an inquiry

receiving from said wireless network responses associated with said inquiry from one or more user devices in said group of user devices and forwarding said responses into said network to said first user device

para 15, base on the identified matches to the questionnaire, this information is then forwarded back to the first user (i.e. by way of putting the contactees on the instant messaging list). See also para 45 – a two way match suggests those users identified need to reply such that their information is forwarded only when their criteria matches the original user's criteria. (see also para 73).

Henrickson and Mayer both address the use of wireless devices (e.g. pda's, cell phones) in communication, thus both Hendrickson and Mayer are analogous art. Further they both address gathering information from users so that the intrinsic needs of users can be fulfilled.

One of ordinary skill in the art at the time of the invention would have modified the teachings of Hendrickson, regarding obtain various attributes of wireless device users for the purpose of filling their needs, to include the social networking and matchmaking teachings of Mayer to provide a predictable result, since Mayer teaches that individual data (e.g. sex, age) is useful as attributes in providing a wireless device matchmaking service. Thus the claimed limitations are a combination of elements known in the art that would be combinable to achieve a predictable result.

As per claim 2, Hendrickson et al. discloses the method as in claim 1 wherein said attribute is a specific geographical location (col. 11, lines 45-53).

As per claim 3, Hendrickson et al. discloses the method as in claim 1 wherein said attribute is a specific distance from said first user (col. 7, lines 1-11).

As per claim 4, Hendrickson et al. discloses the method as in claim 1 wherein said attribute includes a specific age (col. 11, lines 34-44).

As per claim 5, Hendrickson et al. discloses the method as in claim 1 wherein said attribute is a specific occupation (col. 11, lines 34-44).

As per claim 6, Hendrickson et al. discloses the method as in claim 1 wherein said attribute is a specific sex (col. 11, lines 34-44).

As per claim 7, Hendrickson et al. discloses the method as in claim 1 wherein said information includes a home address of its respective user (col. 11, lines 34-44).

Claims 21-27 recite similar limitations to those addressed by the rejection of Claims 1-7 above and are therefore rejected under the same rationale.

Furthermore regarding Claims 21-27, Hendrickson teaches the use of software to perform method steps in a wireless network (see Figure 2A).

6. **Claims 8-9, 28 and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrickson et al. (U.S. 6,754,470) in view of Mayer, as applied above, and further in view of De Vries (U.S. 6,968,179).

As per claim 8, Hendrickson et al. does not expressly disclose receiving from said wireless network a signal from said first user, said signal identifying users of said wireless network who are on said first user's buddy list; adding to said respective information of each of those of said plurality of users who are on said first user's buddy list that he/she has been included in said first user's buddy list.

De Vries discloses receiving from said wireless network a signal from said first user, said signal identifying users of said wireless network who are on said first user's buddy list (col. 5, line 67-col. 6, line 3);

adding to said respective information of each of those of said plurality of users who are on said first user's buddy list that he/she has been included in said first user's buddy list (col. 7, lines 33-43; Users may be grouped/added into different buddy lists based on different attributes.).

Hendrickson et al. and De Vries are analogous in that each facilitates communication via a wireless network and tracks certain wireless activities of users. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Hendrickson et al. to add users to a user's buddy list because doing so enables users to communicate with and track certain wireless activities of a specifically defined group of users they're interested in, thereby enhancing the wireless activities tracking features of the system.

As per claim 9, Hendrickson et al. does not expressly disclose receiving from said wireless network a signal from said first user, said signal identifying users of said wireless network who are listed in said first user's address book; adding to said respective information of each of those of said plurality of users who are listed in said first user's address book that he/she has been included in said first user's address book.

De Vries discloses receiving from said wireless network a signal from said first user, said signal identifying users of said wireless network who are listed in said first user's address book (col. 5, line 67-col. 6, line 3);

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adding to said respective information of each of those of said plurality of users who are listed in said first user's address book that he/she has been included in said first user's address book (col. 7, lines 33-43; Users may be grouped/added into different buddy lists based on different attributes.).

Hendrickson et al. and De Vries are analogous in that each facilitates communication via a wireless network and tracks certain wireless activities of users. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Hendrickson et al. to add users to a user's address book because doing so enables users to communicate with and track certain wireless activities of a specifically defined group of users they're interested in, thereby enhancing the wireless activities tracking features of the system.

Claims 29 and 29 recite similar limitations to those addressed by the rejection of **Claims 8 and 9** above and are therefore rejected under the same rationale.

Furthermore regarding **Claims 28 and 29**, Henrickson teaches the use of software to perform method steps in a wireless network (see Figure 2A)

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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An open service architecture for adaptive personal mobile communication-

T Kanter - IEEE [see also IEEE Wireless Communications] ..., 2001 -

ieeexplore.ieee.org.

Location-based VAS: killer applications for the next-generation mobile Internet

A Mihovska, JM Pereira - Personal, Indoor and Mobile Radio Communications,

2001 - ieeexplore.ieee.org

US 6798358 by Joyce teaches location based content delivery in a wireless network.

US 7143066 by Shear teaches a method of narrowcasting using filtering to identify items based on criteria of interest for computer users.

US 6904408 by McCarthy teaches a system for providing personalized web content to users based on their profile.

US 2005/0149383 by Zacharia teaches a recommender rating system for use with a computer system.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached Monday – Friday from 10-6 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell, can be reached at 571-272-6737.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Jonathan G. Sterrett/
Primary Examiner, Art Unit 3623